

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

McKesson Corp., a Delaware Corp.,  
Plaintiff,

No. C-07-5715 WDB

v.

**ORDER RE MARCH 12, 2008,  
HEARING**

Familymeds Group, Inc., f/k/a  
Drugmax, Inc., a Connecticut  
corporation,

Defendants.

Familymeds Group, Inc., f/k/a  
Drugmax, Inc., a Connecticut  
corporation,

Counterclaimant

v.

McKesson Corp., a Delaware  
corporation,

Counterdefendant.

Familymeds, Inc., a Connecticut  
corporation,

Cross-complainant

v.

McKesson Corp., a Delaware  
corporation,

Cross-defendant.

1 The Court wants the clients in this case to understand what is driving the  
2 orders the Court entered orally at the initial case management conference on March  
3 12, 2008, and that are summarized below. One of the Court's responsibilities to  
4 the litigants is to do what it can to keep litigation transaction costs from growing  
5 out of all proportion to the amounts at stake under the claims in the case. The  
6 Court also has a duty, imposed by the Federal Rules of Civil Procedure, to do what  
7 it can to promote the "just, speedy, and inexpensive determination of every action."

8  
9 The procedure the Court has ordered is informed by responsiveness to these  
10 merging duties and by the Court's sense that what is at the center of this case is a  
11 matter of accounting that parties who are proceeding in good faith should be able  
12 to digest in a straightforward exchange of information.

13 For several years, the parties and their predecessors have been involved in a  
14 high volume business relationship in which some \$170,000,000 has changed  
15 hands. It beggars the Court's imagination that, against that background of deep  
16 experience and considerable business sophistication, the parties cannot figure out  
17 what amounts remain owing. We don't need a lawsuit; we need ethical business  
18 people to determine responsibly what is owed and to get that amount promptly  
19 paid.

20 So, between now and the end of April, the parties must sit down in the same  
21 room with one another, accompanied by appropriately knowledgeable persons, and  
22 try (really) to resolve these accounting matters. If the parties fail, after trying in  
23 good faith, to reach an agreement, the Court will move this case toward an  
24 adjudicated disposition as fast as the mandates of due process permit.

25 **Before Wednesday, April 30, 2008**, the parties must exchange information  
26 about the disputed accounts and must meet to discuss settlement of the parties'  
27 claims. The parties must produce all representatives necessary to facilitate this  
28

1 exchange of information including, without limitation, those familiar with the  
2 necessary computer systems, billing processes, and rules applicable to pricing.

3 The Court hereby enters a PROTECTIVE ORDER pursuant to which all  
4 information exchanged among the parties pursuant to this Order must be treated as  
5 CONFIDENTIAL unless and until otherwise ordered by the Court.

6 The Court prohibits the parties from filing additional motions or conducting  
7 formal discovery until after April 30, 2008.

8 **By Monday April 28, 2008, at noon**, the parties must file a joint case  
9 management conference statement describing the status of the parties' efforts.

10 **On Wednesday, April 30, 2008, at 3:00 p.m.**, the Court will conduct a  
11 follow up case management conference. Any party may appear by telephone and  
12 must call the Court's staff by April 28, 2008, at (510)-637-3324 to arrange to  
13 appear by telephone.

14 The Court CONTINUES the hearing on McKesson's Motion to Dismiss to  
15 **Wednesday, April 30, 2008, at 3:00 p.m.** The hearing will go forward following  
16 the status conference unless McKesson has withdrawn its Motion prior to that time.

17 The Court ORDERS counsel to deliver a copy of this Order promptly to  
18 their clients.

19 IT IS SO ORDERED.

20 Dated: March 13, 2008

21   
22 WAYNE D. BRAZIL  
23 United States Magistrate Judge

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Copies to: parties, wdb, stats